

# Request for Approval of Routine Program Changes to the Maine Coastal Program

Submitted to:

National Oceanic & Atmospheric Administration  
Office of Ocean & Coastal Resource Management  
Washington, D.C.

Maine Department of Agriculture, Conservation and Forestry,  
Bureau of Resource Information and Land Use Planning

Maine Coastal Program



June 2014

# **Routine Program Change Request**

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National Oceanic and Atmospheric Administration  
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Maine Coastal Program  
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Bureau of Resource Information and Land Use Planning  
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[www.maine.gov/dacf/mcp/index.htm](http://www.maine.gov/dacf/mcp/index.htm)

## **INTRODUCTION**

In 1978, the National Oceanic and Atmospheric Administration ("NOAA") approved the Maine Coastal Program ("MCP"). The original program was based on eleven environmental laws, the MCP's core laws, which provided the Program's enforceable policies. The MCP's enforceable policies have evolved over time as the State of Maine ("State") has changed the framework of laws and agency rules that govern management of Maine's coastal resources and uses.

The Department of Agriculture, Conservation and Forestry's Bureau of Resource Information and Land Use Planning ("DACF"), which houses the Maine Coastal Program, periodically submits program changes to NOAA's Office of Ocean and Coastal Resource Management ("OCRM") for its review and approval of their incorporation into the MCP as enforceable policies and tools to improve program administration and implementation.

This submission contains the following changes and additions to core law authorities enacted by the Second Regular Session of the 126<sup>th</sup> Maine Legislature: P.L. 2013 chapters: 453, sec. 1; 458, sec. 1; 462, sec. 13; 489, sec. 1; 523, sec. 3; 536, secs. 1-2; 570, sec. 1; and 588, sec. A-48. The above-noted laws amend and supplement provisions of the Natural Resources Protection Act, Shoreland Zoning Act, and water quality, solid waste and oil spill clean-up-related laws which are included among the MCP's core laws.

These recently enacted public laws are available on-line at: <http://www.mainelegislature.org/ros/LOM/LOMDirectory.htm>. The submission also includes 38 M.R.S. §2101, a previously enacted law which is referenced in P.L. 2013 ch. 458, sec. 1.

DACF has determined that these changes are routine program implementation and has requested that NOAA concur with this determination. DACF has provided notice of these proposed changes to the MCP in accordance with 15 C.F.R. §923.84 (b)(2). A copy of that notice is attached as Appendix A.

Appendix B provides the text of these public laws. Appendix C is a table which provides section-by-section explanation of these changes.

## **OVERVIEW**

Inclusion of each of these changes as applicable among the core laws that provide enforceable policies of the MCP is a routine program change as defined by 15 C.F.R. §923.80(d). None of these changes presents a significant issue regarding special management areas, coastal program boundaries, program authorities or organization, or coordination, public involvement, or the national interest, and thus each proposed change is a routine program change under the criteria of 15 C.F.R. §923.80(d).

Approval of these changes will facilitate administration of the MCP by updating the Program's core laws and thus promoting consistency between application of pertinent provisions

in state environmental laws as enforceable policies of the MCP and as state environmental and natural resources licensing and permitting requirements under state law.

The great majority of the provisions of the public laws proposed as routine program changes make minor, technical changes, or clarifications or incremental substantive changes to state statutes that provide coastal management-related policies. The following are descriptions of those that are comparatively substantive. These descriptions are meant to facilitate NOAA's review and supplement information in Appendix C, a table which identifies and summarizes each proposed routine program change.

- **P.L. 2013 c. 489, §1 (amending 38 MRS §436-A, sub-§12)**

Certain provisions of the Shoreland Zoning Act ("SZA") require permit approval of a "structure" to be located within the shoreland area which the SZA regulates. Testifying in support of the bill later enacted into law as P.L. 2013, ch. 489, DEP explained that clarification that septic tanks and wells are not "structures" regulated under the law is consistent with DEP's prior interpretation of the law. Exempting geothermal systems from the law's definition of "structure" provides similar clarification. These modest, incremental changes reflect on-going clarification and adaptation of the law to address new and emerging issues.

These changes do not present a significant issue regarding special management areas, coastal program boundaries, program authorities or organization, or coordination, public involvement, or the national interest. These changes do not involve making new uses subject to management but concern the manner in which DEP interprets the SZA, long a core law of Maine's coastal program. Accordingly, these are routine program change under the criteria of 15 C.F.R. §923.80(d).

- **P.L. 2013 c. 570, §1 (amending 38 M.R.S. §480-E, §3)**

This change further consolidates in DACF's Bureau of Forestry authority for issuing Natural Resources Protection Act permits ("NRPA") for "timber harvesting activities", which as defined include certain related road construction and gravel mining activities, by giving the bureau such authority statewide. The law requires the bureau to consult with DEP prior to authorizing gravel mining related to construction of certain forest roads.

As the director of the Bureau of Forestry explained in his testimony in support of this legislation,

"This bill would allow the Department of Environmental Protection to delegate its permit-granting authority for crossings of streams and non-forested wetlands to the Maine Forest Service in the organized towns, as it already has in the unorganized territory. We do not foresee any changes to the crossing standards we already have in place, although it is possible that in the future, we could identify ways to improve the administrative process."

The director noted in addition that "the goal then, as it is now, was to make the Maine Forest Service the one-stop shop for forestry regulation in the state", an approach which creates uniformity, simplifies the governance framework for the regulated community, and removes the

need for municipalities to address “timber harvesting activities” under the bureau’s purview pursuant to the Shoreland Zoning Act. OCRM previously approved as routine program changes prior amendments to the NRPA giving the bureau such permitting authority in the State’s unorganized areas. *See* P.L. 2011, c. 599, section 13.

This incremental change concerning administration of the NRPA does not present a significant issue regarding special management areas, coastal program boundaries, program authorities or organization, or coordination, public involvement, or the national interest, or make new uses subject to management. Accordingly, this is a routine program change under the criteria of 15 C.F.R. §923.80(d).

- **P.L. 2013 c. 536, §§1-2 (enacting 38 M.R.S. §§480-B, sub-§5-C and 480-Q, sub-§ 5-(G))**

These changes to the NRPA add a definition of “motorized recreational gold prospecting” and amend the NRPA’s prohibition on that activity to cover specified waters with significant habitat value for native brook trout and Atlantic salmon as well as Class AA waters.

These changes refine the NRPA’s prohibition on this activity which OCRM previously approved as a routine program change. *See* P.L. 2013 c. 260, §1. These changes do not present a significant issue regarding special management areas, coastal program boundaries, program authorities or organization, or coordination, public involvement, or the national interest, or make new uses subject to management. Accordingly, they are routine program change under the criteria of 15 C.F.R. §923.80(d).



## **Appendix A: Text of public notice**





## **Notice of Proposed Routine Program Changes to the Maine Coastal Program**

Under Section 307 of the Coastal Zone Management Act ("CZMA"), the "federal consistency" provision, federal agencies have an obligation to conduct their activities consistently with the state environmental and land use statutes and rules ("core laws") which provide the enforceable policies of the Maine Coastal Program ("MCP"), Maine's federally-approved coastal zone management program. In accordance with 15 C.F.R. §923.84, the Maine Department of Agriculture, Conservation and Forestry, Division of Geology, Natural Areas and Coastal Resources ("DACF") is submitting to the federal National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Management ("NOAA"), for its review and approval as enforceable policies and related program administration-related provisions of the MCP the following public laws enacted by the 126<sup>th</sup> Maine Legislature, Second Regular Session: Public Law 2013 Chapters: 453, sec. 1; 458, sec. 1; 462, sec. 13; 489, sec. 1; 523, sec. 3; 536, secs. 1-2; 570, sec. 1; and 588, sec. A-48. The above-noted laws amend and supplement provisions of the Natural Resources Protection Act, Shoreland Zoning Act, and water quality, and solid waste and oil spill clean-up-related laws which are among the MCP's core laws. These recently enacted public laws are available on-line at: [\[http://www.mainelegislature.org/ros/LOM/LOMDirectory.htm\]](http://www.mainelegislature.org/ros/LOM/LOMDirectory.htm). The submission also includes 38 M.R.S. §2101, a previously enacted law which is referenced in P.L. 2013 ch. 458, sec. 1. DACF has determined that these changes are routine program changes and has requested that NOAA concur with this determination.

### **PUBLIC COMMENTS**

A copy of the State's filing submitting these changes to NOAA is available for download at: [\[http://www.maine.gov/doc/nrimc/mcp/index.htm\]](http://www.maine.gov/doc/nrimc/mcp/index.htm). A hard copy may be obtained from Aline Smith, Maine Coastal Program, Maine Department of Agriculture, Conservation and Forestry, Division of Geology, Natural Areas and Coastal Resources, 93 State House Station, Augusta, Maine 04333-0038; tel: 207-287-2801; e-mail: [Aline.Smith@maine.gov](mailto:Aline.Smith@maine.gov).

Interested parties have three weeks from the date of this notice to submit comments to NOAA on whether the requested changes are routine program implementation. Comments may be sent to: Joelle Gore, Acting Chief

Coastal Programs Division, N/ORM3  
NOAA/Ocean and Coastal Resource Management  
1305 East West Highway, SSMC4  
Silver Spring, Maryland 20910  
[Joelle.Gore@noaa.gov](mailto:Joelle.Gore@noaa.gov)



## **Appendix B: Text of laws submitted**



PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

## **An Act To Delay Implementation of Reformulated Gasoline Requirements in Maine**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** current law requires the sale of reformulated gasoline in 7 southern counties in the State beginning on May 1, 2014; and

**Whereas,** due to recent developments in the gasoline supply network, gasoline distributors in the State are unable to meet this requirement without significant expense, which could impact pricing across the State; and

**Whereas,** in order to meet federal Clean Air Act requirements, from May 1st to September 15th, retailers who sell gasoline in 7 southern counties in the State may sell only gasoline that has a Reid vapor pressure no greater than 7.8 psi; and

**Whereas,** before the State can require the 7 counties to sell only reformulated gasoline during the summer months, the Department of Environmental Protection must submit a request to the United States Environmental Protection Agency; and

**Whereas,** sufficient lead time is necessary for submission of the State's request by the Department of Environmental Protection and review of the State's request by the United States Environmental Protection Agency prior to the 2015 summer season; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

**Be it enacted by the People of the State of Maine as follows:**

→ **Sec. 1. 38 MRSA §585-N**, as enacted by PL 2013, c. 221, §2, is amended to read:

### **§ 585-N.Reformulated gasoline**

Beginning ~~May 1, 2014~~June 1, 2015, a retailer who sells gasoline in York, Cumberland, Sagadahoc, Androscoggin, Kennebec, Knox or Lincoln County may sell only reformulated gasoline in those counties.

**Sec. 2. Report.** The Department of Environmental Protection shall study the feasibility of easing the multiple gasoline requirements in this State and achieving the use of a single type of gasoline for all of the State. The Department of Environmental Protection shall submit a report and implementing legislation directing the State to use a single type of gasoline to the joint standing committee of the Legislature having jurisdiction over environment and natural resources matters by January 30, 2015. The joint standing committee may report out a bill on the subject matter of the department's report to the First Regular Session of the 127th Legislature.

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## An Act To Implement the Solid Waste Management Hierarchy

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §1310-N, sub-§1, as amended by PL 2013, c. 243, §1, is further amended to read:

1. **Licenses.** The department shall issue a license for a waste facility whenever it finds that:

A. The facility will not pollute any water of the State, contaminate the ambient air, constitute a hazard to health or welfare or create a nuisance;

B. In the case of a disposal facility, the facility provides a substantial public benefit, determined in accordance with subsection 3-A; and

C. In the case of a disposal facility or a solid waste processing facility that generates residue requiring disposal, the volume of the waste and the risks related to its handling and disposal have been reduced to the maximum practical extent by recycling and source reduction prior to disposal. This paragraph does not apply to the expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling or to any other facility exempt from the requirements of subsection 5-A. The department shall find that the provisions of this paragraph are satisfied when the applicant demonstrates that the applicable requirements of subsection 5-A have been satisfied; and

D. The practices of the facility are consistent with the State's solid waste management hierarchy set forth in section 2101. The department shall adopt rules incorporating the State's solid waste management hierarchy as a review criterion for licensing approval under this subsection. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Effective 90 days following adjournment of the 126th Legislature, Second Regular Session, unless otherwise indicated.

enforcement functions, including dispatching of municipal units, in return for payment for these services.

**Sec. 9. 30-A MRSA §1101**, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

**§ 1101. Activities authorized; costs**

County commissioners may provide for ~~civil defense~~emergency management activities as provided by law within their respective counties. The county commissioners shall include the cost of these activities in the annual estimate under chapter 3.

**Sec. 10. 37-B MRSA §793, sub-§1**, as enacted by PL 1989, c. 464, §3, is amended to read:

**1. Local committees established.** The commission shall, by resolution, appoint the members of the local emergency planning committee of each emergency planning district. The committee ~~shall consist~~consists of at least 14 members and, except as provided in subsection 2, ~~shall include~~includes representatives from each of the following organizations or groups: elected state and local officials; law enforcement, ~~civil defense~~emergency management, firefighting, first aid, health, local environmental, hospital and transportation personnel; broadcast and print media; citizens living near local facilities; employees working in local facilities; community groups; and owners and operators of facilities subject to the emergency planning requirement of this subchapter.

**Sec. 11. 37-B MRSA §802, sub-§1, ¶¶C and D**, as enacted by PL 1989, c. 464, §3, are amended to read:

C. To provide training grants; and

D. To provide for the resource needs of the local emergency planning committees; and

**Sec. 12. 37-B MRSA §802, sub-§1, ¶E** is enacted to read:

E. To provide for the procurement and maintenance of hazardous materials incident response equipment and related consumable supplies. Disbursements for this purpose must be approved by the commission.

→ **Sec. 13. 38 MRSA §547, sub-§3**, as amended by PL 1973, c. 788, §212, is further amended to read:

**3. Emergency management.** The provisions of Title ~~37-A~~37-B, chapter ~~313~~, as they shall apply to eminent domain and compensation, mutual aid, immunity, aid in emergency, right of way, enforcement and compensation, shall apply to disasters or catastrophes proclaimed by the Governor under this subchapter.

**Sec. 14. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 30-A, chapter 7, in the chapter headnote, the words "civil defense" are amended to read "emergency management" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

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**An Act To Amend the Mandatory Shoreland Zoning Laws To Exclude  
Subsurface Waste Water Disposal Systems, Geothermal Heat Exchange  
Wells and Wells or Water Wells from the Definition of "Structure"**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 38 MRSA §436-A, sub-§12**, as amended by PL 2013, c. 320, §6, is further amended to read:

**12. Structure.** "Structure" means anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property of any kind and anything constructed or erected on or in the ground,~~exclusive of fences and poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors.~~ "Structure" ~~includes a structure temporarily or permanently located~~does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface waste water disposal systems as defined in Title 30-A, section 4201, subsection 5; geothermal heat exchange wells as defined in Title 32, section 4700-E, subsection 3-C; or wells or water wells as defined in Title 32, section 4700-E, subsection 8. As used in this subsection, "service drop" has the same meaning as in section 952.

Effective 90 days following adjournment of the 126th Legislature, Second Regular Session, unless otherwise indicated.



~~with plans and financial information submitted to the Department of Transportation by November 1, 1999. Notwithstanding any other provision of this section, 20% of all funds authorized by the Legislature after January 1, 1999 for municipal reimbursement of sand and salt storage facility construction costs must be used to reimburse municipalities with Priority 4 projects eligible under this subsection until all such eligible projects have been fully reimbursed. The department shall reimburse municipalities eligible under this subsection in the order in which those municipalities complete the submission of all required documentation;~~

**5. Priority changes.** ~~Priority 3 projects designated on April 1, 2000 that were designated Priority 4 projects as of October 15, 1997;~~

**6. Priority 5 projects.** Priority 5 projects that were constructed before November 1, 1999, with plans and financial information submitted to the Department of Transportation by November 1, 1999;

**7. Other projects.** ~~All other projects eligible for reimbursement. Priority 4 and Priority 5 sites designated on April 1, 2000 are not eligible for reimbursement.~~

Allocation of funds must be based upon the sum of 25% of the expenses permitted plus 1.25 times the ratio of miles of state and state aid roads maintained for winter maintenance, as described in sections 1001 and 1003, to all miles maintained for winter maintenance by the municipality, quasi-municipal agency or county. The Department of Transportation shall establish guidelines to reimburse eligible local government entities in a consistent and timely manner.

The Department of Transportation shall review and approve municipal and county plans and specifications pursuant to established departmental guidelines for design, construction and size before a municipality or county constructs a facility. Municipal actions inconsistent with such guidelines are reimbursed at the sole discretion of the department.

Reimbursable expenses under this section do not include land acquisition or debt service.

**Sec. 2. 23 MRSA §1852**, as amended by PL 1999, c. 387, §2, is repealed.

→ **Sec. 3. 38 MRSA §451-A, sub-§1-A**, as amended by PL 1999, c. 387, §5, is further amended to read:

**1-A. Time schedule for salt and sand-salt storage program.** An owner or operator of a salt or sand-salt storage area is not in violation of any groundwater classification or reclassification adopted on or after January 1, 1980 with respect to discharges to the groundwater from those facilities, if the owner or operator has completed all steps required to be completed by the schedules set forth in this subchapter. The commissioner shall administer this schedule according to the project priority list adopted by the board pursuant to section 411 and the provisions of this subsection. A municipal or county site classified as Priority 4 or Priority 5 as of April 1, 2000, which was registered pursuant to section 413 prior to October 15, 1997, may not be in violation of any groundwater classification or reclassification with respect to discharges to the groundwater from those facilities.

A. Preliminary notice for municipal and county Priority 3 projects must be completed and submitted to the Department of Transportation by the following dates: within 2 months of receipt of a certified letter from the Department of Transportation notifying the municipality or county of

funds available for the construction of a facility.

(1) For Priority 1 and 2 projects, the latest of the following dates:

(a) ~~One year from a designation under section 411;~~

(b) ~~One year from notice of availability of a state grant, if eligible; or~~

(c) ~~January 1996.~~

(2) For municipal, state and county Priority 3 projects, the later of the following dates:

(a) ~~One year from notice of availability of a state grant, if eligible; or~~

(b) ~~January 2003.~~

(3) For other Priority 3 projects, the later of the following dates:

(a) ~~One year from a designation under section 411; or~~

(b) ~~January 1997.~~

D. For municipal and county sites ~~only~~ Priority 3 projects, review of final plans with the Department of Transportation must be completed within ~~12~~14 months of the ~~dates established in paragraph A for each priority category~~ receipt of a certified letter from the Department of Transportation notifying the municipality or county of funds available for the construction of a facility.

E. Construction of municipal and county Priority 3 projects must be completed and the facility must be in operation within 24~~26~~ months of the ~~dates established in paragraph A for each priority category~~ receipt of a certified letter from the Department of Transportation notifying the municipality or county of funds available for the construction of a facility.

In no case may violations of the lowest groundwater classification be allowed. In addition, no violations of any groundwater classifications adopted after January 1, 1980; may be allowed for more than ~~3 years~~26 months from the date of an offer of a state grant for the construction of those facilities.

The department may not issue time schedule variances under subsection 1 to owners or operators of salt or sand-salt storage areas.

An owner or operator of a salt or sand-salt storage area who is in compliance with this section is exempt from the requirements of licensing under section 413, subsection 2-D.

An owner or operator is not in violation of a schedule established pursuant to this subsection if the owner or operator is eligible for a state grant to implement the schedule and the state grant is not available.

**Sec. 4. Report.** By January 1, 2017, the Department of Transportation shall provide a report to the joint standing committee of the Legislature having jurisdiction over transportation matters on the status of providing funding under the Maine Revised Statutes, Title 23, section 1851 for the construction of salt and sand storage facilities in municipalities and counties with Priority 3 projects and providing reimbursement for qualified Priority 5 projects. The department shall consult with the Department of Environmental Protection, when appropriate, to identify those provisions of law governing project funding that are unnecessary and no longer relevant because all funding has been completed and shall include in the report suggested legislation making the recommended changes. The joint standing committee of the Legislature having jurisdiction over transportation matters may submit a bill to the First Regular Session of the 128th Legislature related to the recommendations in the department's report.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective 90 days following adjournment of the 126th Legislature, Second Regular Session, unless otherwise indicated.

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## **An Act To Prohibit Motorized Recreational Gold Prospecting in Class AA Waters and Certain Atlantic Salmon and Brook Trout Habitats**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** motorized recreational gold prospecting may occur without a permit, subject to certain conditions; and

**Whereas,** in order to provide additional protection to certain sensitive stream segments that provide important habitats to Atlantic salmon and brook trout before the next motorized recreational gold prospecting season, which will begin after winter ends, this legislation must take effect as soon as possible; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 38 MRSA §480-B, sub-§5-C** is enacted to read:

**5-C. Motorized recreational gold prospecting.** "Motorized recreational gold prospecting" means the operation of small-scale, motorized equipment for the removal, separation, refinement and redeposition of sediments and other substrates occurring below the normal high-water mark of a stream for the noncommercial, recreational discovery and collecting of gold specimens. "Motorized recreational gold prospecting" includes, but is not limited to, the operation of a motorized suction dredge, sluice, pump, rocker box or winch, individually or together.

**Sec. 2. 38 MRSA §480-Q, sub-§5-A, ¶G,** as enacted by PL 2013, c. 260, §1, is amended to read:

G. Motorized recreational gold prospecting is prohibited within the following areas:

- (1) Waters closed to motorized recreational gold prospecting in the unorganized territories identified in rules adopted by the Department of Agriculture, Conservation and Forestry, Maine Land Use Planning Commission; and
- (2) Waters closed to motorized recreational gold prospecting identified in rules adopted by the Department of Environmental Protection; and
- (3) Waters defined as Class AA waters pursuant to section 465; and
- (4) The following areas of critical or high-value brook trout or Atlantic salmon habitat:

(a) Bemis Stream and tributaries in Township D and Rangeley Plantation;

(b) Bond Brook in the City of Augusta and the Town of Manchester;

(c) Bull Branch of Sunday River and tributaries in Grafton Township and Riley Township;

(d) Carrabassett River and tributaries in the Town of Carrabassett Valley, Freeman Township, the Town of Kingfield, Mount Abram Township and Salem Township;

(e) Cold Stream tributaries, including Tomhegan Stream, in Chase Stream Township, Johnson Mountain Township and West Forks Plantation;

(f) Enchanted Stream in Upper Enchanted Township and Lower Enchanted Township;

(g) Magalloway River and tributaries, including Little Magalloway River, in Bowmantown Township, Lincoln Plantation, Lynchtown Township, Magalloway Plantation, Oxbow Township, Parkertown Township and Parmachenee Township;

(h) Rapid River in the Town of Upton and Township C;

(i) Sheepscot River and tributaries, including the West Branch, in the Town of Alna, the Town of China, the Town of Freedom, the Town of Liberty, the Town of Montville, the Town of Palermo, the Town of Somerville, the Town of Whitefield and the Town of Windsor;

(j) South Bog Stream in Rangeley Plantation;

(k) Spencer Stream and Little Spencer Stream tributaries, including Kibby Stream in Kibby Township, Skinner Township, T.3, R.5 B.K.P. W.K.R., T.4, R.5 B.K.P. W.K.R., King and Bartlett Township and T.5, R.6 B.K.P. W.K.R.; and

(l) Togus Stream in the Town of Chelsea and the Town of Randolph.

**Sec. 3. Department of Inland Fisheries and Wildlife; review of critical and high-value brook trout habitat.** By December 1, 2015, the Department of Inland Fisheries and Wildlife shall review data, conduct site visits and collect any additional information necessary to determine whether the specific areas listed in the Maine Revised Statutes, Title 38, section 480-Q, subsection 5-A, paragraph G, subparagraph (4), as they relate to critical or high-value habitat for brook trout, continue to represent critical or high-value habitat for brook trout, and whether there are areas not

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## **An Act To Further Delegate Permit-granting Authority to the Bureau of Forestry**

**Be it enacted by the People of the State of Maine as follows:**

**Sec. 1. 38 MRSA §480-E-3**, as enacted by PL 2011, c. 599, §13 and amended by c. 657, Pt. W, §§5 and 7 and PL 2013, c. 405, Pt. A, §23, is further amended to read:

### **§ 480-E-3. Delegation of permit-granting authority to the Department of Agriculture, Conservation and Forestry, Bureau of Forestry**

Notwithstanding section 480-E-1, the Department of Agriculture, Conservation and Forestry, Bureau of Forestry shall issue all permits under this article for timber harvesting activities ~~that are located within the unorganized and deorganized areas of the State as defined in Title 12, section 682, subsection 1 and in all areas of the State that~~ are not subject to review and approval by the department under any other article of this chapter. For the purposes of this section, "timber harvesting activities" means timber harvesting, the construction and maintenance of roads used primarily for timber harvesting, the mining of gravel used for the construction and maintenance of roads used primarily for timber harvesting and other activities conducted to facilitate timber harvesting. Prior to issuing a permit under this section for the mining of gravel used for the construction or maintenance of roads used primarily for timber harvesting in an organized area of the State, the Bureau of Forestry shall consult with the department.

**1. Activity located in organized and unorganized area.** ~~If a timber harvesting activity is located in part within an organized area and in part within an unorganized or deorganized area, that portion of the timber harvesting activity within the organized area is subject to department review under this article if that portion is an activity pursuant to this article. That portion of the timber harvesting activity within an unorganized or deorganized area of the State is not subject to the requirements of this article except as provided in subsection 2.~~

**2. Allowed use.** ~~If a timber harvesting activity is located as described in subsection 1, the department may review that portion of the activity within the unorganized and deorganized areas if the Department of Agriculture, Conservation and Forestry, Bureau of Forestry determines that the project is an allowed use within the subdistrict or subdistricts for which it is proposed. A permit from the Bureau of Forestry is not required for those aspects of an activity approved by the department under this subsection.~~

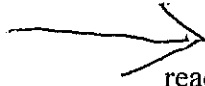
The Department of Agriculture, Conservation and Forestry, Bureau of Forestry, in consultation with the department, shall annually review standards for timber harvesting activities adopted by the Bureau of Forestry to ensure that the standards afford a level of protection consistent with the goals of this article and the goals of Title 12, chapter 805, subchapter 3-A.

Effective 90 days following adjournment of the 126th Legislature, Second Regular Session, unless

(1) For active duty service in the active components of the United States Army, Navy, Air Force, Marines or Coast Guard by a service member whose permanent duty station during such service is located outside of this State; and

(2) For active duty service in the active or reserve components of the United States Army, Navy, Air Force, Marines or Coast Guard or in the Maine National Guard by a service member in support of a federal operational mission or a declared state or federal disaster response when the orders are either at federal direction or at the direction of the Governor of this State; and

**Sec. A-47. Application.** That section of this Part that repeals and replaces the Maine Revised Statutes, Title 36, section 5122, subsection 2, paragraph LL applies to tax years beginning on or after January 1, 2014.

 **Sec. A-48. 38 MRSA §439-A, sub-§4-B,** as enacted by PL 2013, c. 140, §1, is amended to read:

**4-B. Exemption from setback requirements for decks over rivers within a downtown revitalization project.** In accordance with the provisions of this subsection, a municipality may adopt an ordinance that exempts a deck from the water and wetland setback requirements otherwise applicable under this section.

A. Notwithstanding ~~subsection~~subsection 4 and 4-A, a municipality may adopt an ordinance pursuant to this subsection that exempts a deck from the otherwise applicable water or wetland setbacks if the following requirements are met:

- (1) The deck does not exceed 700 square feet in area;
- (2) The deck is cantilevered over a segment of a river that is located within the boundaries of a downtown revitalization project; and
- (3) The deck is attached to or accessory to a use in a structure that was constructed prior to 1971 and is located within a downtown revitalization project.

B. A downtown revitalization project under this subsection must be defined in a project plan approved by the legislative body of the municipality and may include the revitalization of buildings formerly used as mills that do not meet the water or wetland setback requirements in ~~subsection~~subsection 4 and 4-A.

C. Except for the water and wetland setback requirements in ~~subsection~~subsection 4 and 4-A, a deck that meets the requirements of this subsection must meet all other state and local permit requirements and comply with all other applicable rules.

D. A deck exempt under this subsection may be either privately or publicly owned and maintained.

**Sec. A-49. 38 MRSA §579, first ¶,** as amended by PL 2013, c. 369, Pt. D, §1 and c. 415,

# Maine Revised Statutes

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## §2022

## Title 38: WATERS AND NAVIGATION

## §2101-A

### Chapter 24: SOLID WASTE MANAGEMENT AND RECYCLING HEADING: PL 1995, C. 465, PT. A, §26 (RPR)

### Subchapter 1: GENERAL PROVISIONS HEADING: PL 1995, C. 465, PT. A, §27 (RPR)

#### §2101. Solid waste management hierarchy

**1. Priorities.** It is the policy of the State to plan for and implement an integrated approach to solid waste management for solid waste generated in this State and solid waste imported into this State, which must be based on the following order of priority:

- A. Reduction of waste generated at the source, including both amount and toxicity of the waste; [1989, c. 585, Pt. A, §7 (NEW).]
- B. Reuse of waste; [1989, c. 585, Pt. A, §7 (NEW).]
- C. Recycling of waste; [1989, c. 585, Pt. A, §7 (NEW).]
- D. Composting of biodegradable waste; [1989, c. 585, Pt. A, §7 (NEW).]
- E. Waste processing that reduces the volume of waste needing land disposal, including incineration; and [2007, c. 583, §7 (AMD).]
- F. Land disposal of waste. [1989, c. 585, Pt. A, §7 (NEW).]

It is the policy of the State to use the order of priority in this subsection as a guiding principle in making decisions related to solid waste management.

[ 2007, c. 583, §7 (AMD) .]

**2. Waste reduction and diversion.** It is the policy of the State to actively promote and encourage waste reduction measures from all sources and maximize waste diversion efforts by encouraging new and expanded uses of solid waste generated in this State as a resource.

[ 2007, c. 192, §2 (NEW) .]

#### SECTION HISTORY

1989, c. 585, §A7 (NEW). 2007, c. 192, §2 (AMD). 2007, c. 583, §7 (AMD).

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**The Revisor's Office cannot provide legal advice or  
interpretation of Maine law to the public.**



# APPENDIX C

## Routine Program Changes to the MAINE COASTAL MANAGEMENT PROGRAM: Core Law Changes from 126<sup>th</sup> Maine Legislature, Second Regular Session

June 2014

The routine program changes listed in this table are comprised of: 1) changes to the core laws which provide the Maine Coastal Program's enforceable policies that were enacted by the 126<sup>th</sup> Maine Legislature, Second Regular Session, which met from January 8, 2014 to May 2, 2014. The submission also includes a statutory section which one of these recently-enacted laws incorporates by reference. Each of the changes enacted during the 126<sup>th</sup> Maine Legislature's Second Regular Session takes effect as state law on August 1, 2014, unless otherwise indicated. The Maine Department of Agriculture, Conservation and Forestry, Maine Coastal Program, seeks to incorporate these changes, detailed below, as routine program changes for purposes of federal consistency review as applicable. With the exception of changes marked with an asterisk (\*), which concern program administration, authorities or organization and are not proposed as enforceable policies *per se*, these changes are proposed as enforceable policies.

NOTE: See Attachment B for the text of these statutory changes.

Name/Description of State or Local Law/ Regulation/Policy/ Program Authority or Change	Public Law 2013, chapter and section(s)	State Statutory Citation	Enforcement Mechanism(s)	Date Effective in State – 8.1.14, unless otherwise indicated	Notes
<b>AMENDED:</b>					
Amend the Shoreland Zoning Act's definition of "structure" to clarify that it includes both temporary and permanent structures and to specify that it does not	489(1)	38 MRS §436-A(12)	Local shoreland zoning approval		

include geothermal heat systems, subsurface waste disposal systems, or wells						
Clarifies the scheduled steps that an owner or operator of a salt or sand-salt storage area must take to avoid liability with respect to discharges to the groundwater from those facilities	523(3)	38 MRS §451-A(1-A)	DEP order			
Clarifies the Bureau of Forestry's statewide authority for issuing NRPA permits for "timber harvesting activities"; and requires the Bureau to consult with DEP prior to issuing an NRPA permit authorizing gravel mining for construction of certain forest management roads	570(1)*	38 MRS §480-E-3	DACF/forestry permit			
Corrects a cross reference	588(A-48)	38 MRS §439-A(4-B)	Local shoreland zoning approval	4.30.14		Emergency legislation (errors and omissions bill)
Amends provision in state oil spill clean-up laws outlining the governor's emergency declaration authority to correct a cross reference	462(13)*	38 MRS §547(3)	n/a			
Changes date after which only reformulated gasoline may be sold in coastal counties in southern Maine from May 1, 2014 to June 1, 2015	453(1)	38 MRS §585-N	DEP order			

<b>ADDED:</b>				
Amends the Natural Resources Protection Act (NRPA) to add a definition of "motorized recreational gold prospecting"	536(1)	38 MRS §480-B(5-C)	DEP permit	4.8.14 Emergency legislation
Amends NRPA prohibition on "motorized recreational gold prospecting" to cover Class AA waters and other specified waters with critical or high-value brook trout or Atlantic salmon habitat	536(2)	38 MRS §480-Q(5-G)	DEP permit	4.8.14 Emergency legislation
Makes consistency with the solid waste hierarchy in 38 MRS §2101 an approval criterion for a DEP solid waste facility license	458(1)	38 MRS §1310-N(1)(D)	DEP license	
This provision, which is incorporated by reference by 38 MRS 1310-N(1)(D), establishes state policy setting a hierarchy of preferred options for solid waste management	n/a	38 MRS §2101	DEP license	See note Enacted in 1989; effective as subsequently amended on date of submission
<b>REPEALED: * -repealed provisions are not themselves proposed as enforceable policies</b>				

